

# **EXHIBIT 5**

CLINE, BELL & HAYES.txt  
for the record. I want to make it  
clear one other thing, too. What  
Mr. Bailey testified about how we  
found out about that information  
is absolutely accurate. I want to  
be on the record telling the court  
that. We did not suggest that he  
do that.

THE COURT: Fin again, we are outside  
of the presence of the hearing of

13

the jury. Let's bring the jury  
in.

Ladies and gentlemen of the  
jury, you may be seated as you  
arrive.

THE CLERK: Mr. Cline to the courtroom,  
please.

THE COURT: Please be seated. United  
States may call its next witness.

MR. FRANKLIN: United States calls  
Darren Cline.

DARREN RICHARD CLINE

The witness, having first been sworn to  
speak the truth, the whole truth and nothing but  
the truth, testified as follows:

THE COURT: You may proceed,  
Mr. Franklin.

MR. FRANKLIN: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. FRANKLIN:

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1 were here in '97. How long did you

2 participate in the fundraising aspect of the

3 gubernatorial campaign?

4 A. From '97 through November of '90 -- of '98.

5 Q. And in November of '98, what happened?

6 A. Well, the -- the campaign was over at that

7 point. It went into an inaugural situation.

8 Let's see, we had an inaugural committee and

9 we had a -- we had other contracts. At that

10 time, I was promoted within my company to

11 being a partner. And I was to over see a few

12 aspects of some contracts that our company

13 had in Alabama. We had the inaugural which

14 was given to another person in our company

15 that I didn't have anything to do with. And

16 then I started overseeing debt retirement at

17 the Alabama Democratic Party. We had some

18 debt with the campaign that we also retired

19 at that time.

20 Q. Did you have an opportunity to immediately

21 after Governor Siegelman was elected to

22 office?

23 A. Yes. That was the Alabama Education Lottery

20

1 Foundation.

2 Q. Tell us what kind of foundation it was, just

3 a little bit of background on what was done

4 by the people working with you to create that

5 foundation?

6 A. Since it was not a regular campaign where you

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7 were he electing a person, we set it up  
8 because it was a referendum campaign, which  
9 means it had to be said up in a special way.  
10 So we set up a 501C for, which is under the  
11 IRS code, is a way to set up an entity like  
12 this so that you can legally accept corporate  
13 contributions as well as personal  
14 contributions. And the C 4 is just an entity  
15 that can be used so that people can't deduct  
16 it off their taxes. Because you're not  
17 allowed to use political money to deduct off  
18 your taxes. So by setting up this entity, it  
19 was set up in a way that we could advocate  
20 for the lottery and it wasn't have any tax  
21 implications.

22 Q. Did you begin to go about what you specialize  
23 in?

21

1 A. Yes.

2 Q. And that is fundraising; is that correct?

3 A. Funds raising, yes.

4 Q. What did you start doing to help raise funds  
5 for the Alabama -- give us the entity. What  
6 was it called?

7 A. The Alabama Education Lottery Foundation.

8 And we started raising money from a lot of  
9 the folks that had given to the gubernatorial  
10 campaign folks the inaugural and people that  
11 give in Alabama. We -- we ended up having  
12 call time with the -- with the governor as  
13 well as some of our folks doing call time on

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14 their own.

15 Q. Did you have a location -- a particular  
16 location that you worked out of?

17 A. Yeah. We started at the -- at an apartment  
18 in the Montecello Apartments by the bypass,  
19 and we eventually moved to a house right  
20 across from the governor's mansion on the  
21 corner of Perry Street and I'm not sure what  
22 the cross street is.

23 Q. Now, the Montecello Apartments location, did

□ 22

1 anybody live at that particular location or  
2 did you all just rent an apartment there?

3 A. I actually lived at that location until  
4 January. But we had another apartment we  
5 rented there that people stayed in and then  
6 we used that apartment mostly for raising  
7 money.

8 Q. What else did you use the apartment for?  
9 Just making phone calls? What else --

10 A. Making phone calls and doing follow-up to  
11 folks. Because once -- once you get somebody  
12 to say yes or no, there's a systemic  
13 follow-up that we have where we fax a letter  
14 within 15 minutes of somebody committing to  
15 an amount, and -- and then we send fax  
16 reminders once a week or once every ten days  
17 to remind them of their commitment to give by  
18 a specific deadline.

19 Q. Do you recall in terms of the gubernatorial  
20 was decided or the election was decided in

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21 representing the under dog in a political  
22 campaign?

23 Q. Yes?

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1 A. Yes, we do.

2 Q. In the 1998 gubernatorial campaign between  
3 Governor Siegelman and Governor James, under  
4 your suspicion, Governor Siegelman campaign's  
5 raised somewhere between nine and \$10  
6 million, yes, sir. And was that some sort of  
7 record in Alabama at that time?

8 A. I'm sure it was.

9 Q. Okay. You -- to put it bluntly, y'all did a  
10 phenomenal job in your ability to raise money  
11 for Governor Siegelman during that campaign?

12 A. Yes, sir.

13 Q. And there's not a thing that you know of  
14 under your supervise vision during your  
15 campaign that was inappropriate?

16 A. Not that I can think of.

17 Q. Now, a lot of fast forward now. Governor  
18 Siegelman wins the election for governor,  
19 correct?

20 A. Uh-huh.

21 Q. Erased nine And 10, correct. It's a record?

22 THE COURT: If you would, answer yes or  
23 no.

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1 THE WITNESS: Okay. Okay.

2 A. Yes.

3 Q. And I may be talking too fast. It's terribly  
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18 knowing what any legal obligations were, it  
19 was in the best benefit for everybody to work  
20 together and let's try to retire this debt as  
21 quick as possible?

22 A. Correct. Yes.

23 Q. I want to show you the third page of the

□ 117

1 exhibit.

2 A. Okay.

3 Q. And direct your attention to where you  
4 explicitly referenced Mr. Scrushy's  
5 participation in this debt retirement?

6 A. Okay.

7 Q. Before we get to that, first, at the top, if  
8 you'll notice, it looks like you have  
9 itemized all of the department that was  
10 incurred by the various parties in promoting  
11 the AEF, correct?

12 A. Correct.

13 Q. There's a total debt of 1.2 million dollars?

14 A. Uh-huh.

15 Q. And you had a game plan, correct?

16 A. Yes.

17 Q. Tell the jury just briefly how your game plan  
18 was to pay off that debt and how quickly you  
19 believed that debt could be paid off?

20 A. Well, I've got to remind had myself as I'm  
21 looking at this. But we -- we had -- let's  
22 see. Okay. we knew that we had 542,000 in  
23 outstanding pledges left over from our last

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0  
1 deadline for the lottery. We felt that we  
2 could go back to those people that had made  
3 pledges that hadn't followed through and get  
4 a certain percentage of them. We knew that  
5 we had a commitment from Richard Scrushy for  
6 250,000 for the Alabama Democratic Party in  
7 1999 and also 250,000 for the Democratic  
8 Party in 2000. So we knew that that would  
9 come in. And then we thought that they would  
10 end up doing the Jefferson Jackson dinner or  
11 some sort of large dinner. Most Democratic  
12 parties refer to it as a Jefferson Jackson  
13 dinner in the south. And then kind of use  
14 all of that to pull everything together to  
15 retire the debt.

16 Q. It was common knowledge -- it was shared with  
17 you and all of the members of your team and  
18 everybody that was involved in this  
19 campaign -- that Mr. Scrushy had committed to  
20 raising \$250,000 in 1999?

21 A. Uh-huh.

22 Q. That was no secret?

23 A. Right.

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0  
1 Q. Nobody was trying to hide the fact that  
2 Mr. Scrushy had committed to help raise  
3 \$250,000 in 1999?

4 A. Correct.

5 Q. Nobody was trying to hide the fact that

6 Mr. Scrushy had committed to razor pay to the

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- 7 Alabama Democratic Party \$250,000 the next  
8 year in the year 2000?  
9 A. Correct.  
10 Q. And your conclusion, based on all the  
11 information you had, including the 12 years  
12 of vast experience in fundraising, was that  
13 any AELF debt could easily paid off by March  
14 or April of 2000?  
15 A. Yes.  
16 Q. And this was after Governor Siegelman had  
17 already raised nine to \$10 million on his  
18 gubernatorial campaign, after Governor  
19 Siegelman had already \$6 million on the AELF?  
20 A. Right.  
21 Q. Governor Siegelman did not have trouble  
22 raising money?  
23 A. No. I don't know what you mean by that.

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- 1 Q. Well, I -- what I mean by it is -- is that  
2 with your great assistance and direction,  
3 Governor Siegelman did not have to resort to  
4 any illegal or unlawful tactics to raise  
5 money for any campaign?  
6 MR. FRANKLIN: Objection, Your Honor,  
7 to the form of the question.  
8 THE COURT: State grounds.  
9 MR. FRANKLIN: He has no idea what Don  
10 Siegelman's intent was. He can't  
11 testify to what was going on in  
12 the mental operations of Governor  
13 Siegelman when he did anything.

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4 A. Yes, sir.

5 Q. On this top paragraph right here, you were  
6 tracking Governor Siegelman's ability to  
7 raise money?

8 A. Correct.

9 Q. And you concluded that Governor Siegelman --  
10 it's not working for me today -- that  
11 Governor Siegelman was able to raise through  
12 telephone solicitations over \$34,000 an hour?

13 A. Yes.

14 Q. And those telephone solicitations were done  
15 under the direction and [SPHR-EUGS] if not  
16 you, people that reported directly to you?

17 A. Correct.

18 Q. And their job was to make sure not only that  
19 he was doing the things that you have to do  
20 that you talked about earlier like follow-up?

21 A. Right.

22 Q. Get a firm commitment?

23 A. Correct.

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1 Q. But also the other things that you talked  
2 about to make sure that there was no quid pro  
3 quo conversation, correct?

4 Q. That there was no conversations that if you  
5 make this is donation to me, that I'm going  
6 to give you something?

7 A. Correct.

8 MR. McDONALD: Your Honor, may I  
9 approach.

10 THE COURT: You may.

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21 we want you to give that kind of money?  
22 A. Yes. It could also be from a meeting. It  
23 could also -- I mean, it doesn't have to be

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1 phone calls.  
2 Q. Right.  
3 A. But we would still use -- excuse me. But we  
4 would still use a focus sheet to track if it  
5 was a phone call, if it was a meeting, if it  
6 was --  
7 Q. Right. And if you get a positive response  
8 from that individual, you might also ask that  
9 individual, well, great, can you also raise  
10 some money in your community?  
11 A. Yeah.  
12 Q. So that in and of itself -- so sometimes you  
13 give, sometimes you raise money, sometimes  
14 you both give and raise money?  
15 A. Correct.  
16 Q. Nothing unusual about that?  
17 A. Not at all.  
18 Q. All right, sir. Now, why -- we band I as  
19 many as large amounts of money around in the  
20 courtroom, obviously, today. Why it is in  
21 your opinion necessary that political  
22 campaigns and the lottery referendum  
23 campaign, why do they cost so much money?

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1 Where does the money go? And let me ask it  
2 this way because that's a broad question.  
3 Let me narrow it down. Okay. Explain to

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4 this jury, if you know, how much, if you do a  
5 saturation by. well, that's my word?

6 A. Okay.

7 Q. If you buy -- I know you guys have a  
8 political term for it, but if you buy a  
9 saturation by a statewide television for a 30  
10 second commercial and you want to run that  
11 for a week, approximately how much money is  
12 involved in that?

13 A. What period.

14 THE COURT: What period of time,  
15 Mr. Butts, unless this is a  
16 standard rate year to year.

17 Q. 1998 gubernatorial campaign or during the  
18 fundraiser for the lottery?

19 A. During the lottery, it was different rates.  
20 So -- but if you're looking at a  
21 saturation -- if you want to get your name ID  
22 where you have an even chance of fighting  
23 something out, it's about 1.5 million. But

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1 you probably need to spend somewhere between  
2 three and 4 million on television to keep  
3 your name up there and -- and able to  
4 convince people to vote for your referendum  
5 or to vote for you as a candidate.

6 Q. Right.

7 A. You probably need to spend more than that,  
8 because your opponents are going to be  
9 slinging mud at you, especially in Alabama.  
10 But you're looking at 3 to 4 million is what  
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11 you need. But you'd like to have a lot more  
12 than that.

13 Q. Yes, sir. So if I understood what you just  
14 said, to buy just a -- just a maximum  
15 television buy in Alabama for the lottery  
16 campaign and to do that for a week, for a 30  
17 second thought?

18 A. No. I'm sorry. I thought you said for the  
19 campaign. For one week.

20 Q. For a week?

21 A. About 700,000, I think. It's between 5 and 7  
22 at00. And you're looking, you know, we did  
23 probably a six to 8 week buy. So you're

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1 looking at 3 to 4 million.

2 Q. All right. So the point is that it costs a  
3 lot of money whether you're a candidate or  
4 you're spend money to try to get a lottery  
5 rev rent [TKP-UPL] approved?

6 A. Yes, it does.

7 Q. And that's primarily concentrated on  
8 television buys?

9 A. Yeah.

10 Q. All right. But there are other costs  
11 associated with both the '98 political  
12 campaign and the '99 fund raiser -- or '98 --  
13 '99 money that was spent on the lottery --

14 A. Right.

15 Q. -- for other costs. For example, you've got  
16 to pay you guys?

17 A. Yeah. You have to pay salary, you have  
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18 direct mail pieces that you would do.

19 Telephone calls.

20 Q. Right.

21 A. And any other kind of overhead.

22 Q. All right, sir. So let me shorten this by

23 saying it this way. So the bottom line is

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1 this. In the state of Alabama, if you're --

2 whether you're a candidate in 1998 or whether

3 you -- it was for the lottery referendum, it

4 takes a tremendous amount of money to get

5 your message across?

6 A. Yes, it does.

7 Q. All right, sir. So that it would be -- not

8 be -- would it be unusual, for example, I

9 believe you testified that you spent some \$6

10 billion for the lottery campaign?

11 A. Yeah.

12 Q. And that is -- do you consider that a

13 significant amount of money in the extreme of

14 things?

15 A. It's a significant amount of money in the

16 state of Alabama.

17 Q. Correct. But for the amount of money that it

18 cost to get your message over, it's not

19 significant?

20 A. Yeah K 8 to 10 million is significant.

21 Q. All right, sir. Now, just -- [W-UPBL] last

22 question on this, [KWR-URPBL], bear with me

23 and then I'll move on to something else.

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1 [FIX]?

2 Q. Just so this jury understands about the  
3 relativity of how much money it costs to run  
4 cam [PA-EUPBLS] and referendums. Do you know  
5 in the state of Alabama approximately how  
6 much it cost for a house of representative  
7 seat?

8 A. I don't know. I mean, I --

9 Q. That's okay if you don't know. Do you know  
10 about a [ST-EUT] Senate seat?

11 A. It depends on the state Senate seat. Some  
12 costs 50, 6 [#] 0,000. Some can cost a  
13 million to 1.5.

14 Q. How about a Supreme Court cost?

15 A. That could go from a million to 1.5 [#]  
16 million.

17 Q. Then when you get to a governor's race, that  
18 amount of money in 1998 was approximately how  
19 much if you know that was spent by Governor  
20 James at that time and then Governor  
21 Siegelman total?

22 A. Combined total?

23 Q. Yes, sir. If you know?

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1 A. 12, 14 million.

2 Q. All right, sir. Now, do you have any idea  
3 how much governor really spent the in 2002?

4 A. I don't know -- I don't know how much he  
5 spent.

6 Q. All right, sir. I'll move on. All right.

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7 You made a statement in testifying Mr. Cline  
8 that Richard Scrushy wouldn't return your  
9 calls in 1998.

10 A. Yes.

11 Q. Was that because he had supported Fob James  
12 instead of Governor Siegelman?

13 A. I guess, you'd have to ask him.

14 Q. All right, sir. Was it your understanding  
15 that Richard Scrushy supported Fob James in  
16 the 1998 gubernatorial campaign?

17 A. I -- I don't really know, because in my realm  
18 of work, there's some people that support one  
19 side and the other side and there's some  
20 people that support both sides.

21 Q. All right, sir.

22 A. Okay, so --

23 Q. Fair enough. All right. Was Richard Scrushy

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1 targeted in 1998 for the gubernatorial  
2 campaign of Governor Siegelman?

3 A. I know we talked about it. We had met him  
4 one time when I first got here in '97 at the  
5 St. James hotel in Selma. That was the only  
6 time I ever met him. And I know that they  
7 didn't talk about money or anything else. We  
8 just talked about building a relationship.  
9 Nothing ever came of it.

10 Q. All right, sir. And was he later targeted  
11 for the lottery campaign?

12 A. Later on with the lottery, yes, Governor  
13 Siegelman said he would be one of the people

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14 we needed to ask to help.

15 Q. And why was the lottery in need of money?

16 A. Because we had to raise 3 to 5 million to get  
17 our message across.

18 Q. Is it fair to say that it was always a  
19 lottery debt and you were constantly trying  
20 to raise money to getting the message across?

21 A. Yes.

22 Q. All right, sir.

23 A. But I don't understand what you mean by

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1 lottery debt.

2 Q. Well, I'll come to that?

3 A. Okay.

4 Q. I'll cover that. Do you recall any other  
5 major contributors to the lottery campaign?

6 A. I'd have to look at the list again.

7 Q. All right, sir. You mentioned that it was  
8 your understanding that Alfa corporation, the  
9 insurance company, gave \$100,000?

10 A. Uh-huh.

11 Q. Do you know if they were supporting the  
12 lottery?

13 A. I have no clue if they were supporting the  
14 lottery.

15 Q. Do you know if they wanted their money  
16 disguised in any way?

17 A. No, I don't. I don't know if they wanted  
18 their money disguised or -- or anything.

19 Q. So it's fair to say, you don't know. You  
20 just know that they gave?